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FRESENIUS MEDICAL CARE HOLDINGS,
INC. AND FRESENIUS USA, INC.

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

BAXTER HEALTHCARE CORPORATION,
BAXTER INTERNATIONAL INC., BAXTER
HEALTHCARE SA, AND DEKA LIMITED
PARTNERSHIP,

Plaintiffs and Counter-defendants,

vs.

FRESENIUS MEDICAL CARE HOLDINGS,
INC., d/b/a FRESENIUS MEDICAL CARE
NORTH AMERICA, and FRESENIUS USA,
INC.,

Defendants and Counter-claimants.

Case No. C 07-01359 PJH (JL)

**STIPULATION OF DISMISSAL OF U.S.
PATENT NO. 5,324,422 WITH
PREJUDICE**

1 WHEREAS, the parties agree to dismiss all claims, defenses and counterclaims with
2 respect to U.S. Patent No. 5,324,422;

3 NOW, THEREFORE, the parties and their counsel of record stipulate as follows:

- 4
- 5 • The parties dismiss from this suit, with prejudice, all claims, defenses and
6 counterclaims relating to U.S. Patent No. 5,324,422, except that, in the event that any
7 of the plaintiffs or their assignee ever assert the '422 patent against products not
8 accused in this action, defendants may assert any defenses or counterclaims that they
9 raised or could have raised in this action; and
 - 10 • The parties agree that each party shall bear its own costs and attorneys' fees as to
11 such claims, defenses and counterclaims; and

12 IT IS SO ORDERED.

13 Dated: 7/2/10

14 By: _____
15 HONORABLE _____
16 United States _____



June 23, 2010

By: /s/ David K. Callahan /s/

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**BAXTER HEALTHCARE CORPORATION,
BAXTER INTERNATIONAL INC., and
BAXTER HEALTHCARE SA**

June 23, 2010

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HOLDINGS, INC. AND FRESENIUS
USA, INC.**

ELECTRONIC FILING DECLARATION OF DAVID K. CALLAHAN, P.C.

I, David K. Callahan, declare as follows:

1. I am a partner at Kirkland & Ellis LLP, and I am Baxter Healthcare Corporation's, Baxter International Inc.'s, and Baxter Healthcare SA's legal counsel in the above-captioned litigation.
2. Pursuant to the Northern District of California Electronic Filing Procedures and General Order No. 45, I attest that Maureen K. Toohey, counsel for Plaintiff DEKA Products Limited Partnership and Michael E. Florey, counsel for Fresenius Medical Care Holdings, Inc. and Fresenius USA, Inc. concur in the filing of this document and have granted me permission to electronically file this document absent their actual signatures.

Dated: June 23, 2010

Respectfully submitted,

Kirkland & Ellis LLP

By: /s David K. Callahan s/
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